IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Criminal Writ Petition No.2065 of 2005

Tariq Abdul Karim Parveen Petitioner

Vs. ,

State of Maharashtra Respondent

Mr.S.R.Chitnis, Sr.Advocate with Mr.Girish Kulkarni
for petitioner.

Ms.P.H.Kantharia, APP for State.

CORAM: B.H.MARLAPALLE & SMT.R.S.DALVI,JJ.

February 08, 2006.

P.C.

. Heard Mr.Chitnis, the learned Senior Counsel for the petitioner. The petitioner is aggrieved by the order dated 22nd August 2005 passed by the learned Special Judge under the Maharashtra Control of Organised Crime Act, 1999 whereby Misc. Application No.416 of 2005 moved by the petitioner in MCOC Special Case No.3 of 2003 came to be rejected.

. It was mainly urged before us that there was no sanction granted by the Competent Authority and in any case the investigation was not caused / conducted by an officer of the level of the Deputy Superintendent of Police as required under Section 23(1)(b) of the said Act.

. We have noted that before the petitioner filed Misc. Application No.416 of 2005 the Commissioner of Police, Brihan Mumbai vide his order dated 16th October 2004 exercised his powers under Section 23(2) of the said Act and accorded sanction for the prosecution of the petitioner for offences under Section 3(1)(ii), 3(2) and 3(4) of the Act. It was urged by Mr.Chitnis that the sanction order dated 16-10-2004 has been passed after the Special Case no.3 of 2003 was registered. As per the prosecution case the petitioner was arraigned in the list of the accused subsequently and in the charge-sheet submitted before the Special Court he is shown as one of the accused. The investigations have been carried out, as per the prosecution, by the Assistant Commissioner of Police who is of the rank of the Deputy Superintendent of Police.

. This statement is confirmed from the order dated 16-10-2004 itself as the designation of Mr. T.K. Yengade is Assistant Commissioner of Police, Unit-I, South DCB, CID, Mumbai and he also has been designated in addition as the Chief Investigating Officer.

. Under the circumstances, there is no substance in the challenge raised to the impugned order passed by the Special Court and, therefore, this petition must fail at the threshold.

. The same is hereby rejected summarily. Interim orders stand vacated.

(SMT.R.S.DALVI,J.) (B.H.MARLAPALLE,J.)